

01-13-04

3728



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RESPONSE TO NOTICE OF ABANDONMENT UNDER CFR 1.53[f] OR [g]

ART UNIT 3728

APPLICANT – ANNA MECCA

TITLE – TOUCH UP COSMETIC COMPACT

SERIAL NUMBER – 10/024,823

FILING DATE – 12/18/2001

MAIL STOP – OFFICE OF PETITIONS

COMMISSIONER FOR PATENTS

P. O. BOX 1450

ALEXANDRIA, VA 22313-1450

RECEIVED
JAN 15 2004
TECHNOLOGY CENTER R3700

Dear Sir:

The attached material was sent express mail on December 26, 2003 addressed to Mail Stop – Non Fee Patent Amendment. In the event that this address was incorrect, this attached material is resubmitted by express mail on January 12, 2004.

On 12/23/03, the undersigned received a copy of the above identified Notice of Abandonment, CERTIFICATION No. 4267, stating that a Notice to File Missing Parts

mailed on 01/22/2002 was mailed to applicant and no reply was received. A copy of the Notice is attached.

The undersigned mailed the above identified application as an express mail package [E7760486694US] on 12/18/01 and had carefully reviewed all proper documents that were included in the package.

I attach a copy of the utility patent application transmittal form listing all of the application elements which were included in the package and identifying the express mailing.

I received a return postcard from the Office acknowledging proper receipt of all filed documents. I attach a copy of the return postcard. This receipt clearly acknowledges that the Patent Office received all proper documents as listed on the postcard. If parts of the application were missing, the Patent Office should have issued a Notice to File Missing Parts rather than authenticating proper filing by sending out the return post card.

I subsequently received Confirmation No. 4267 Filing Receipt bearing mailing date of 01/22/2002 copy attached. This document confirms the proper filing accepted on the return post card and bears the mailing date of 01/22/2002. This mailing date is identical to the Notice to File Missing Parts that the Confirmation Letter states was mailed on 01/22/02 to the undersigned. on the same date. Clearly Confirmation No 4267 Filing Receipt and the mailing date given to the Notice of Missing Parts are identical and are inherently contradictory. How could the Patent Office issue the Filing Receipt document and confirm that all parts of the application had been properly received and on the same date issue the Notice of Missing Parts?

Applicant assumes that for some reason the Notice to File Missing Parts was never properly mailed. In any event, he never received it and cannot respond to it because he does not know what parts are missing.

In fact, applicant submits that the attachments described and attached above confirm his position that the application was complete in every detail when filed and perhaps some parts of the application were misplaced or improperly filed after receipt in the Office.

Applicant will of course furnish copies of what ever parts have been found missing once he is informed as to what copies are needed. However, applicant respectfully submits that the Notice of Abandonment should be withdrawn and that this application should be restored to pending status so that an appropriate action can be issued by the Office once the Office file is complete.

Respectfully submitted,



Theodore Jay, Registration Number 17071

16 N. Chatsworth Ave.

Suite 600

Larchmont, NY 10538

Tel 914 834 3769

December 26, 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/024,823	12/18/2001	Anna Mecca	

THEODORE JAY
SUITE 600
16 N CHATSWORTH AVE.
LARCHMONT, NY 10538



CONFIRMATION NO. 4267
ABANDONMENT/TERMINATION
LETTER
[REDACTED]
OC000000011505807

Date Mailed: 12/18/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 01/22/2002.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of UNINTENTIONAL DELAY must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

M. [Signature]
Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

RECEIVED

JAN 15 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

APPLICATION NUMBER	FLING DATE	GRP ART UNIT	FLG FILE REC'D	ATTY/DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/024,823	12/18/2001	3728	370		3	6	1

THEODORE JAY
SUITE 600
16 N CHATSWORTH AVE.
LARCHMONT, NY 10538



CONFIRMATION NO. 4267
FILING RECEIPT
[REDACTED]
OC000000007341814

Date Mailed: 01/22/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Anna Mecca, Ridgefield, NJ;
John J. Slink, Greenwich, CT;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 01/22/2002

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

** SMALL ENTITY **

Title

Touch up cosmetic compact

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Preliminary Class

203



PTO/SB/05 (03-01)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Use the Paperless Patent Application (1200, 1200A, 1200B) if you are connected to a computer system that has a valid OMB control number.

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. Fee Transmitted Items (e.g., PTO/SB/17) **check box 9410**
Return an original and a duplicate for the presentation
Applicant claims small entity status.
See 37 CFR 1.27.
2. Specification **[Total Pages 5]**
Detailed description of the invention
- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Pod sponsored R & D
- Reference to sequence listing, a table, or a computer program listing appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure
3. Drawing(s) (35 U.S.C. 113) **[Total Sheets 3]**
4. Oath or Declaration **[Total Pages 1]**
a. Newly executed (original or copy)
Copy from a prior application (37 CFR 1.63 (d))
(for continuation/divisional with Box 18 completed)
b. **DELETION OF INVENTOR(S)**
Signed statement attesting deleting Inventor(s)
named in the prior application. See 37 CFR 1.63(e)(2) and 1.33(a).
c. Application Data Sheet. See 37 CFR 1.76

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

Continuation Divisional Continuation-In-Part (CIP)

of prior application No. _____

Group Art Unit _____

For continuation or divisional Apps only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Sec. 13, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation by reference may be read up when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

<input type="checkbox"/> Customer Number or Bar Code Label				<input checked="" type="checkbox"/> Correspondence address below
Name	THEODORE JAY			
Address	16 N CHATSWORTH AVE SUITE 600			
City	LARCHMONT	State	NY	Zip Code 10530
Country	USA	Telephone	914 804 3767	Fax 914 804 1844
Name (Print/Type)	THEODORE JAY	Registration No. (Attorney/Agent)	17071	
Signature	THEODORE JAY	Date	12/18/01	

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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Rec'd is acknowledged for
patent application papers
of Anna Queen and John Shunk
for Touch Up Cosmetic Compact
including Specification and
Claims, 3 sheets of drawings
Declaration + Power of
Attorney, assignment and
case sheet with full patent
application transmitted forms,
Request + Certificate form
return postage and
check for \$410



TM
WILHELM